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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,666	12/05/2005	Takao Shibata	Q91463	7227

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EXAMINER

MULLIS, JEFFREY C

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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12/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/559,666

Applicant(s)

SHIBATA ET AL.

Examiner

Jeffrey C. Mullis

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12-5-05;3-16-06</u> . | 6) <input type="checkbox"/> Other: _____ |

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what is intended by a "monomer (B)" in that the recited monomer is in fact recited to be two different materials and appears to be possibly a mixture rather than a single monomer. Furthermore two "unsaturated bonds" attached to a monomer could not be said to be "intermolecular". Although "intermolecularly" may be intended this is not clear. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda (JP 07-331025).

Patentees disclose a composition which may contain as much as 99 % rubber modified styrenic resin and the remainder polyorganosiloxane based thermoplastic resin (see the Patent Abstracts of Japan abstract). The polysiloxane contains an agent "II" (as in applicants graft linking agent at a level of 0-1)% or preferably 0.5-5% (paragraph 4). Twenty percent (but up to 200%) vinyl monomer may be polymerized in the polyorganosiloxane containing the graft linker in paragraph 5.

No examples exist in which all of applicants limitations are present in combination but to arrive at applicants composition by selecting from the various choices of the patent would have been obvious to a practitioner having an ordinary skill in the art at the time

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of the invention in the expectation of adequate results basement any showing of surprising or unexpected results.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyatake et al. (US 2003/0092819).

Patentees disclose a process in which polymerization of vinyl monomers (as in applicants vinyl monomer ©) is conducted in the presence of a silicone latex (ie grafted) with 5-40 parts monomer (paragraph 80). The silicone latex may contain 0-40% graftlinker or preferably 0.5-20% (paragraph 41).

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis at telephone number 571 272 1075.

JCM

11-27-07

Jeffrey C. Mullis
Primary Examiner
Art Unit 1796

